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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

MARK JAMES WILSON,

Plaintiff,

Civil No. 11-6105-TC

v.

ORDER

CANDACE E. WHEELER, et al.,

Defendants.

HOGAN, District Judge.

Plaintiff, an inmate in the custody of the Oregon Department of Corrections filed a complaint under 42 U.S.C. § 1983 alleging claims for "Retaliation; False Information; Prosecutorial Misconduct, Interference with Access to Courts; Informational Privacy; Due Process; Equal Protection; and Civil Conspiracy." Complaint (#2) p. 1.

Plaintiff has filed motions for preliminary injunction as to his claims for "Interference with Court Access" (#6) and "Informational Privacy" (#9), and an "Ex Parte Motion to file Exhibits 1, 11, 15, & 19 Under Seal." (#12)

Plaintiff's Motion to file exhibits under seal (#12) is

allowed.

The relevant factors for determining whether a preliminary injunction should issue were canvassed by the Ninth Circuit in United States v. Odessa Union Warehouse, 833 F.2d 172, 174 (9th Cir. 1987):

"The factors we traditionally consider in determining whether to grant a preliminary injunction in this circuit are (1) the likelihood of plaintiff's success on the merits; (2) the possibility of plaintiff's suffering irreparable injury if relief is not granted; (3) the extent to which the balance of hardships favors the respective parties; and (4) in certain cases, whether the public interest will be advanced by the provision of preliminary relief. Dollar Rent A Car of Washington Inc. v. Travelers Indemnity Company, 774 F.2d 1371, 1374 (9th Cir. 1985). To obtain a preliminary injunction, the moving party must show either (1) a combination of probable success on the merits and the possibility of irreparable injury or (2) that serious questions are raised and the balance of hardships tips in its favor. Benda v. Grand Lodge of the Int'l Ass'n of Machinists & Aerospace Workers, 584 F.2d 308, 314-15 (9th Cir. 1978), cert. dismissed, 441 U.S. 937, 99 S.Ct. 2065, 60 L.Ed.2d 667 (1979). These two formulations represent two points on a sliding scale in which the required degree of irreparable harm increases as the probability of success decreases. Oakland Tribune Inc. v. Chronicle Publishing Co., 762 F.2d 1374, 1376 (9th Cir. 1985).

The moving party must show, at an irreducible minimum, that they have a fair chance of success on the merits. Stanley v. University of Southern California, 13 F.3d 1313, 1319 (9th Cir. 1994), quoting Martin v. International Olympic Committee, 740 F.2d 670, 674-675 (9th Cir. 1994); Committee of Cent. American Refugees v. I.N.S., 795 F.2d 1434, 1437 (9th

Cir. 1986). This is so because the probability of success on the merits is the critical standard in determining the propriety of preliminary relief. Lancor v. Lebanon Housing Authority, 760 F.2d 361, 362 (1st Cir. 1985).

In this case, I find that plaintiff has failed to demonstrate the irreducible minimum of a fair chance of success on the merits of his claims for denial of access to the courts or "informational privacy."

Plaintiff's Motions for Preliminary Injunction (#6) and (#9) are denied.

IT IS SO ORDERED

DATED this 20th day of May, 2011.


Michael R. Hogan
United State District Judge